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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 MARTIN KARI MILLER,

10 Plaintiff,

11 v.

12 CONNIE STEINHEIMER, *et al.*,

13 Defendants.

Case No. 3:16-cv-00317-MMD-VPC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
VALERIE P. COOKE

14 Before the Court is the Report and Recommendation of United States Magistrate
15 Judge Valerie P. Cooke (ECF No. 5) ("R&R") relating to plaintiff's application to proceed
16 *in forma pauperis* (ECF No. 1) and civil rights complaint (ECF No. 1-1). Plaintiff had until
17 November 8, 2017, to file an objection. (ECF No. 5.) To date, no objection to the R&R
18 has been filed.

19 This Court "may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
21 timely objects to a magistrate judge's report and recommendation, then the court is
22 required to "make a *de novo* determination of those portions of the [report and
23 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails
24 to object, however, the court is not required to conduct "any review at all . . . of any issue
25 that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
26 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
27 magistrate judge's report and recommendation where no objections have been filed. See
28 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to
2 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
4 view that district courts are not required to review "any issue that is not the subject of an
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
6 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
8 which no objection was filed).

9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
10 determine whether to adopt Magistrate Judge Cook's R&R. The Magistrate Judge
11 recommends dismissing this action without prejudice based upon Plaintiff's failure to
12 timely submit a completed application to proceed *in forma pauperis*. (ECF No. 5.) Upon
13 reviewing the R&R and proposed complaint, this Court finds good cause to accept and
14 adopt the Magistrate Judge's R&R in full.

15 It is therefore ordered, adjudged and decreed that the Report and
16 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 5) is accepted and
17 adopted in its entirety.


18 It is ordered that plaintiff's application to proceed *in form pauperis* (ECF No. 1) is
19 denied.

20 It is further ordered that the Clerk detach and file the complaint (ECF No. 1-1).

21 It is further ordered that the complaint is dismissed without prejudice.

22 The Clerk is directed to close this case.

23 DATED THIS 8th day of January 2018.

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26 _____
27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE